

DECISION- WALPOLE ZONING BOARD OF APPEALS CASE NO. 24-17

APPLICANT

Norfolk County Agricultural High School

LOCATION OF PROPERTY INVOLVED

400 Main Street

Walpole Assessors Map 18, Parcel 21, Zoning District PSRC

FILE

APPLICATION

A Special Permit under Section 7.6-A.4. of the Zoning Bylaw to allow two electronic message centers utilizing LED, which would be located on each side of the existing monument sign in a Residential District, located at 400 Main Street, Walpole MA, 02081.

On January 17, 2018, a Public Hearing was held in Room 112 of Town Hall for the purpose of receiving information as to the granting of a Special Permit request. During the public hearing, members of the public spoke in opposition to the issuance of the requested Special Permit. Said public hearing was closed and voted on.

The following members were present and voting:

Matthew Zuker, Chairman
Craig Hiltz, Clerk
Susanne Murphy, Member
Mary-Jane Coffey, Member
Robert Fitzgerald, Associate Member

RECEIVED
18 JAN 31 AM 11:30
TOWN OF WALPOLE
TOWN CLERK

VOTE OF THE BOARD

A motion was made by Mr. Hiltz and seconded by Mr. Fitzgerald to grant a Special Permit under Section 7.6-A.4. of the Zoning Bylaw to allow two electronic message centers utilizing LED, which would be located on each side of the existing monument sign in a Residential District, located at 400 Main Street, Walpole MA, 02081, with conditions.

The vote was **(5-0-0) in favor** (Zuker, Hiltz, Murphy, Coffey and Fitzgerald voting), therefore the Request for a **Special Permit** is hereby **granted, subject to the following conditions**:

CONDITIONS:

1. The signs shall be constructed as per the updated plan submitted at the public hearing, on January 17, 2018.

2. The signs shall not be illuminated between the hours of 10:00 p.m. and 6:00 a.m., except for business signs, when the premises on which they are located is open for business, or as extended by the Zoning Enforcement Officer.
3. The signs shall not exceed a brightness level of .3 foot candles above ambient light measured using a foot candle (lux) meter at a distance of one hundred (100) feet from the display.

REASONS FOR DECISION:

It is the finding of the Board that the Applicant was able to meet the requirements of Section 7.6-A.4. to allow two electronic message centers utilizing LED, which would be located on each side of the existing monument sign in a Residential District. The Board finds that the activity is not injurious or dangerous, and shall not result in negative impacts to the environment or public, and that the proposed messaging centers will not be detrimental to the area by reason of lighting, appearance, or impact on neighboring uses. Accordingly, the Board has determined that the Special Permit requested is warranted. The Board made the following findings pursuant to Section 7.6-A.4.:

FINDINGS:

Section 2: Administration, 2. Special Permits, B. Finding and Determination required that:

(a) does and shall comply with such criteria or standards as shall be set forth in the section of this Bylaw which refers to the granting of the requested special permit;

The Board finds this condition is satisfied based on the findings noted above pursuant to Section 7.6-A.4. of the Zoning Bylaw.

(b) shall not have vehicular and pedestrian traffic of a type and quantity so as to adversely affect the immediate neighborhood;

The Board finds that the LED messaging centers do not generate vehicular or pedestrian traffic that would adversely affect the immediate neighborhood. As stated in the public hearing, the messaging centers will be used for informational and educational purposes with regards to the advertisement of community shows, and the proposed message centers will display the same information that the existing non-LED message centers currently have. Therefore, this condition is satisfied.

(c) shall not have a number of residents, employees, customers, or visitors, so as to adversely affect the immediate neighborhood;

The Board finds that the LED message centers do not generate a number of residents, employees, customers or visitors so as to adversely affect the immediate neighborhood. The existing non-LED message centers already display the same information that the proposed LED message centers will be displaying, and therefore will not alter the number of residents, employees, customers or visitors. Therefore, this condition is satisfied.

(d) shall comply with the dimensional requirements applicable to zoning district in which the premises is located, including, without limitation, the applicable lot coverage and buffer zone requirements in Section 5-G;

The Board finds that the proposed LED messaging centers will be within the footprint of the already existing sign, and therefore meeting the setbacks required. There will be no increase in coverage nor are any buffering requirements of Section 5-G applicable. The Board therefore finds that this condition is satisfied.

(e) shall not be dangerous to the immediate neighborhood of the premises through fire, explosion, emission of wastes, or other causes;

The Board finds that the proposed LED messaging centers are not generally known to be associated with fire, explosion, emission of wastes or other similar incidents, and therefore this condition is therefore met.

(f) shall not create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood;

The Board finds that the proposed LED messaging centers are equipped with automatic dimming technology/ ambient light monitors that automatically adjust the brightness levels to the display based on ambient light conditions. The message centers will have a static display, with no use of lasers, sound or rays of light. There is nothing being used, generated or otherwise that would create such noise, vibration, dust, heat, smoke, fumes, odor, glare or other nuisance or serious hazard so as to adversely affect the immediate neighborhood. As stated at the public hearing, the message centers will only have one side visible while travelling in one direction at a time. The Board further finds that the conditions regarding illumination limitations of the digital message center faces will prevent glare conditions from adversely affecting the immediate neighborhood. As such, the Board finds that this criterion is met. Therefore, this condition is satisfied.

(g) shall not adversely affect the character of the immediate neighborhood; and

The Board finds the proposed LED messaging center will be within the footprint of the already existing sign according to the plans submitted at the public hearing. The sign's appearance is designed in a tasteful manner, without any expansion of total size, and therefore will not adversely affect the character of the immediate neighborhood, which is zoned Residential. Therefore, this condition is satisfied.

(h) shall not be incompatible with the purpose of the zoning Bylaw or the purpose of the zoning district in which the premises is located.

The Board finds that the purpose of the Zoning Bylaw in part states, "to encourage housing for persons of all income levels..." "to encourage the most appropriate use of the land". The proposed LED messaging centers will be located in the Park, School, Recreation, and Conservation District, the purpose of which is to provide for areas supporting low density municipal, educational, and recreational use. Consistent with the purpose of the zoning district, the Board finds the proposed LED messaging centers will allow the Norfolk Agricultural High School to display information relating to upcoming educational events in an illuminated and effective manner. As such, this use, as conditioned, is entirely compatible with the purpose of the Zoning Bylaw and this condition is satisfied.

Additionally, the necessary Findings and Determinations noted in Section 7.6-A.4. of the Zoning Bylaw have been satisfied and addressed through this Decision and the conditions.

Said Special Permit is granted pursuant to Massachusetts General Law c. 40A § 9 which provides in pertinent part as follows: "...Zoning ordinances or by-laws shall provide that a special permit granted under this section shall lapse within a specified period of time, not more than two years, which shall not include such time required to pursue or await the determination of an appeal referred to in section seventeen, from the grant thereof, if a substantial use thereof has not sooner commenced except for good cause or, in the case of permit for construction, if construction has not begun by such date except for good cause."

Massachusetts General Laws c. 40A, §11 provides in pertinent part as follows: "A special permit, or any extension, modification or renewal thereof, shall not take effect until a copy of the decision bearing the certification of the city or town clerk that 20 days have elapsed after the decision has been filed in the office of the city or town clerk and either that no appeal has been filed or the appeal has been filed within such time, or if it is a special permit which has been approved by reason of the failure of the permit granting authority or special permit granting authority to act thereon within the time prescribed, a copy of the application for the special permit, accompanied by the certification of the city or town clerk stating the fact that the permit granting authority or special permit granting authority failed to act within the time prescribed, and whether or not an appeal has been filed within that time, and that the grant of the application resulting from the failure to act has become final, is recorded in the registry of deeds for the county and district in which the land is located and indexed in the grantor index under the name of the owner of record or is recorded and noted on the owner's certificate of title. The person exercising rights under a duly appealed special permit does so at risk that a court will reverse the permit and that any construction performed under the permit may be ordered undone. This section shall in no event terminate or shorten the tolling, during the pendency of any appeals, of the 6 month periods provided under the second paragraph of section 6. The fee for recording or registering shall be paid by the owner or applicant."

APPEALS FROM THIS DECISION FOR A SPECIAL PERMIT, IF ANY, SHALL BE MADE PURSUANT TO MASSACHUSETTS GENERAL LAWS CHAPTER 40A, SECTION 17, AND SHALL BE FILED WITHIN TWENTY DAYS AFTER THE DATE OF FILING OF THE NOTICE OF DECISION IN THE OFFICE OF THE CITY OR TOWN CLERK.

WALPOLE ZONING BOARD OF APPEALS



Craig W. Hiltz, Clerk

CH/am

cc: Town Clerk Engineering Planning Board Applicant

Board of Selectmen Building Inspector Conservation Commission Abutters

This decision was made on January 17, 2018 and filed with the Town Clerk on January 31, 2018.